WA 18/2007
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS,
CHIEF JUSTICE(ACTG.)
THE HON'BLR MR JUSTICE B.P.KATAKEY

By this writ appeal the appellant, who is under suspension, has challenged the order dated 22.11.06 passed by the learned Single Judge in WP(C) No.5350/06 challenging the order of suspension dated 6.3.06 as well as the charge memo dated 1.6.06.

2. We have heard Mr B. Chakraborty, learned counsel for the appellant as well as the learned Standing Counsel for the PWD.

3. It appears from the pleadings of the parties that the appellant was transferred from Dibrugarh Electrical Division to Tezpur Electrical Division as Assistant Engineer vide order dated 30.1.06 and because of the failure of the appellant to comply with the order of transfer he was put under suspension vide order dated 6.3.2006 and thereafter a departmental proceeding has been initiated by issuing the charge memo dated 1.6.06. The appellant, on receipt of the charge memo, has submitted the show cause reply on 6.6.2006. The said order of suspension as well as the charge memo have been challenged by the appellant in the aforesaid writ petition which has, however, been dismissed by the learned Single Judge directing payment of the subsistence allowance.

4. On a pointed query made by this Court, the learned Standing Counsel for the PWD has submitted that the departmental proceeding initiated against the appellant vide charge memo dated 1.6.06 is yet to be completed though the written statement was filed as back as on 6.6.06. The charge against the appellant vide charge memo dated 1.6.06 is for negligence of duties, insubordination and disobedience of government instructions in not complying with the order of transfer.

5. Since the departmental proceeding has not been completed for last about 10 months and the charge levelled against the appellant is relating to non-compliance of the order of transfer, we are of the view that the continued suspension of the appellant is not necessary in the present case. Hence, the respondents are directed to recall the order of suspension dated 6.6.06 and pass necessary orders giving posting to the appellant in the interest of public service and in administrative exigencies. However, it is made clear that the departmental proceeding initiated against the appellant shall continue. The subsistence allowance due and payable to the appellant shall also be paid by the respondents.

6. Consequently, the order passed by the learned Single Judge stands modified to the extent indicated above.

7. The writ appeal accordingly stands disposed of.